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Security Council Committee established pursuant to resolution 2048 (2012) concerning Guinea-Bissau

Note verbale dated 11 January 2013 from the Permanent Mission of Luxembourg to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Luxembourg to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 2048 (2012) concerning Guinea-Bissau, and, in accordance with paragraph 10 of that resolution, has the honour to transmit herewith information on the implementation by Luxembourg of the United Nations sanctions imposed on Guinea-Bissau (see annex).

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Annex to the note verbale dated 11 January 2013 from the Permanent Mission of Luxembourg to the United Nations addressed to the Chair of the Committee

Report of Luxembourg to the Security Council Committee established pursuant to resolution 2048 (2012) concerning Guinea-Bissau

In accordance with paragraph 10 of Security Council resolution 2048 (2012), Luxembourg has the honour to provide the Security Council Committee established pursuant to resolution 2048 (2012) concerning Guinea-Bissau with the following information on the specific measures that it has taken to implement effectively the restrictive measures set out in paragraph 4 of that resolution.

I. Measures taken by the European Union

Under European Union law, Security Council resolutions are implemented through decisions taken by the Council of the European Union within the framework of the Common Foreign and Security Policy (CFSP).

These decisions are legally binding on member States and transpose the content of Security Council resolutions into European Union law. In order to make their content not only binding on member States, but also directly applicable within them, the decisions need to be incorporated into European Council regulations. In application of these principles, Luxembourg and the other member States of the European Union have jointly implemented the restrictive measures against Guinea-Bissau imposed by Security Council resolution 2048 (2012) as follows:

Council Decision 2012/285/CFSP of 31 May 2012, concerning restrictive measures directed against certain persons, entities and bodies threatening the peace, security or stability of the Republic of Guinea-Bissau and repealing Decision 2012/237/CFSP

This decision replaces Decision 2012/237/CFSP of 3 May 2012 and embodies the commitment of the European Union to implement all the measures set out in Security Council resolution 2048 (2012). The decision contains restrictive measures directed against persons, entities and bodies threatening the peace, security or stability of the Republic of Guinea-Bissau, including the 11 individuals designated on the travel ban list established by the Security Council Committee established pursuant to resolution 2048 (2012).

Decision 2012/285/CFSP establishes the following measures:

- Restrictions on the entry into the territory of States members of the European Union
- Freezing of funds and economic resources

Regulations of the Council of the European Union

Council regulations implement the elements of the above decisions which fall within the competence of the European Union under the Treaty on the Functioning

of the European Union, in particular with a view to ensuring their uniform application by economic operators in all member States.

Council regulations are binding in their entirety and are directly applicable in all States members of the European Union as soon as they have been published in the *Official Journal of the European Union*. Funds and economic resources are frozen directly and immediately by the Council regulations. No further national implementation is necessary in this respect.

Council Regulation (EU) No. 377/2012 of 3 May 2012 concerning restrictive measures directed against certain persons, entities and bodies threatening the peace, security or stability of the Republic of Guinea-Bissau

Council Regulation (EU) No. 377/2012 was supplemented by the following implementing regulation:

Council Implementing Regulation (EU) No. 458/2012 of 31 May 2012 implementing article 11, paragraph 1, of Regulation (EU) No. 377/2012 concerning restrictive measures directed against certain persons, entities and bodies threatening the peace, security or stability of the Republic of Guinea-Bissau.

The restrictive measures imposed by the European Union directed against certain persons, entities and bodies currently apply to 21 individuals. This group of individuals, which includes the 11 persons on the travel ban list established by the Security Council Committee, are subject to travel restrictions and financial sanctions.

II. Measures taken by Luxembourg

(a) Travel ban: nationals of Guinea-Bissau travelling to Luxembourg require a visa in order to enter the territory of the European Union. The travel restrictions are implemented through the visa application process. Denials of visa applications are governed primarily by the Convention implementing the Schengen Agreement, signed on 19 June 1990; it regulates the entry of third-country nationals into the Schengen area, of which Luxembourg is a part. Article 5, paragraph 1, of the Convention sets out the conditions for entry into the territories of the Contracting Parties. Paragraph 2 of that article states that an alien who does not fulfil all of those conditions must be refused entry into the territories of the Contracting Parties. Since the individuals concerned by measures ordered by the Security Council do not meet the conditions set out in article 5, paragraph 1 (e), of the Convention, which states that the alien must not be considered to be a threat to public policy, national security or the international relations of any of the Contracting Parties, these individuals may not be granted entry into the territory of Luxembourg. Pursuant to articles 15 and 18 of the Convention, this prohibition of entry into the territory applies both to uniform short-stay visas valid for the entire territory of the Contracting Parties and to national long-stay visas. Furthermore, the Act of 29 August 2008 on the free movement of persons and immigration provides that individuals who are not allowed into Luxembourg shall be sent back.

The 11 individuals designated on the travel ban list established by the Security Council Committee are thus subject to the required sanctions.

(b) Assets freeze: Luxembourg's legislation on the financial sector establishes professional obligations and codes of conduct that must be observed at all times and in an ongoing manner by financial institutions. They must therefore

exercise customer due diligence and must cooperate with the authorities, particularly the Financial Sector Supervisory Commission. Before establishing any business relationship or conducting any transaction, institutions must verify the identity of the customer or beneficial owner. Then, throughout the relationship with the client, they must monitor transactions, including with respect to the source of funds. Any measures or international sanctions adopted at the political level by the United Nations Security Council are incorporated into Luxembourg's legislation through European Union regulations that are directly applicable under domestic law. In the event that a customer of a financial institution is targeted by an international sanction, the institution must apply the sanction by freezing the customer's assets without delay and notifying the Ministry of Finance.